

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry's) reconsideration decision dated August 30, 2016 whereby the appellant was found to be ineligible for income assistance pursuant to Section 9 of the *Employment and Assistance Act* (EAA) for not complying with the conditions of his Employment Plan (EP), due to his failure to demonstrate reasonable efforts to participate in the employment-related program and with insufficient medical reason for ceasing to participate.

PART D – Relevant Legislation

Employment and Assistance Act (EAA), Section 9

PART E – Summary of Facts

The Appellant was not in attendance at the hearing. After confirming that he was notified, the hearing proceeded under s. 86 of the Employment and Assistance Regulation (EAR).

The evidence before the ministry at the time of the reconsideration decision included:

Employment Plan (EP) signed by the appellant on March 4, 2016 in which the appellant acknowledged that failure to comply with the conditions of his EP would render him ineligible for income assistance (IA), and in which he agreed to:

- Take part in the contractor program activities as agreed to with the Employment Plan of B.C. (EPBC) contractor;
- Complete all tasks given to him, including any actions set out in his EPBC action plan;
- Call the EPBC Contractor if he cannot take part in services or complete the steps that the appellant agreed to, or when he finds work.

March 15, 2016 – the appellant signed his Action Plan in which he agreed to conduct his own job search and make contact with EPBC Contractor every two weeks.

April 11, 2016 – the EPBC Contractor called the appellant by telephone and was unable to reach him.

April 20, 2016 – the EPBC Contractor sent the appellant an email and the appellant did not reply. The EPBC Contractor called the appellant by telephone and left a message for call back.

May 5, 2016 – the EPBC Contractor sent the appellant an email for follow up and the appellant did not reply. The EPBC Contractor called the appellant by telephone and left a message for call back.

May 24, 2015 – the EPBC Contractor called the appellant by telephone and left a message requesting a call back with a person who answered the appellant's phone.

June 1, 2016 – the EPBC Contractor called the appellant by telephone and left a message requesting a call back with a person who answered the appellant's phone.

June 1, 2016 – the EPBC Contractor reported to the ministry that the appellant's significant other had stated that the appellant began working at an on-call job in May 2016. EPBC reported they were unable to confirm this with the appellant as he had not responded to requests for contact since March 22, 2016. The ministry placed a hold on the appellant's next cheque to discuss the appellant's new employment, EP compliance and the consequences of non-compliance.

June 2, 2016 – the EPBC Contractor called the appellant by telephone and left a message requesting a call back.

June 3, 2016 – the appellant called the EPBC Contractor and agreed to keep in touch every two weeks to provide an update on the appellant's job search.

June 22, 2016 – the appellant attended the ministry office and stated he had not started working but were looking into framing jobs and needed tools. The appellant was referred to the EP worker.

June 23, 2016 – the EPBC Contractor called the appellant by telephone and left a message requesting a call back. The appellant returned the call and set up an appointment for June 30, 2016. The appellant discussed the obligations outlined in his EP and the consequences of non-compliance. The EPBC Contractor advised the appellant that if EPBC reports that the appellant is non-compliant again he will be denied income assistance. The appellant stated that he understood.

June 30, 2016 – the Appellant failed to attend the June 30, 2016 appointment. The EPBC Contractor contacted the appellant by telephone and a meeting was scheduled later in the day.

July 14, 2016 – EPBC reported to the ministry that the appellant did not attend the re-scheduled appointment on June 30, 2016. The appellant contacted the ministry on this day and booked an appointment for July 15, 2016 with the EPBC Contractor.

July 15, 2016 – the appellant failed to attend the booked appointment. The EPBC Contractor contacted the appellant and re-scheduled the meeting to July 19, 2016.

July 19, 2016 – the appellant failed to attend the booked appointment.

July 26, 2016 – EPBC attempted to reach the appellant by telephone but was unsuccessful.

July 29, 2016 – EPBC reported to the ministry that the appellant failed to attend a booked appointment on July 26, 2016.

August 17, 2016 – the appellant contacted the EP worker by telephone and advised that he had been out of town for a couple of weeks and just returned, however he did not provide the EP worker with dates, reasons or evidence of the circumstances. The EP worker advised the appellant that his explanation did not provide satisfactory mitigating circumstances for his ongoing non-participation with EPBC. The ministry informed the appellant that he is denied income assistance for non-compliance with his EP.

August 26, 2016 – the minister received the appellant's signed Request for Reconsideration providing some reasons for non-compliance with his EP and also stating that he realizes that he was delinquent in his adherence to his EP and that by doing so he put his eligibility at risk.

August 30, 2016 – Reconsideration Decision was issued stating that the appellant is ineligible for income assistance for non-compliance with the conditions of the appellants EP.

August 31, 2016 – the appellant files a Notice of Appeal stating he feels like the ministry has not considered his previous history with them. Had they done so, they would have seen that S.A. (social assistance) to me is not a lifetime issue but rather a means to an end and that he is simply looking for help getting back on his feet.

PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry's conclusion that the appellant did not comply with the conditions of his EP, due to his failure to demonstrate reasonable efforts to participate in the employment-related program and with no medical reason for ceasing to participate and that, therefore, the appellant is not eligible for income assistance pursuant to Section 9 of the *Employment and Assistance Act* (EAA) is reasonably supported by the evidence or is a reasonable application of the applicable enactment in the appellant's circumstances.

Relevant Legislation:

Section 9 EAA Employment Plan

9 (1) For a family unit to be eligible for income assistance or hardship assistance, each applicant or recipient

in the family unit, when required to do so by the minister, must

- (a) enter into an employment plan, and
- (b) comply with the conditions in the employment plan.

(2) A dependent youth, when required to do so by the minister, must

- (a) enter into an employment plan, and
- (b) comply with the conditions in the employment plan.

(3) The minister may specify the conditions in an employment plan including, without limitation, a condition requiring the applicant, recipient or dependent youth to participate in a specific employment-related program that, in the minister's opinion, will assist the applicant, recipient or dependent youth to

- (a) find employment, or
- (b) become more employable.

(4) If an employment plan includes a condition requiring an applicant, a recipient or a dependent youth to participate in a specific employment-related program, that condition is not met if the person

- (a) fails to demonstrate reasonable efforts to participate in the program, or
- (b) ceases, except for medical reasons, to participate in the program.

(5) If a dependent youth fails to comply with subsection (2), the minister may reduce the amount of income assistance or hardship assistance provided to or for the family unit by the prescribed amount for the prescribed period.

(6) The minister may amend, suspend or cancel an employment plan.

(7) A decision under this section

- (a) requiring a person to enter into an employment plan,
- (b) amending, suspending or cancelling an employment plan, or
- (c) specifying the conditions of an employment plan

is final and conclusive and is not open to review by a court on any ground or to appeal under section 17(3) [reconsideration and appeal rights].

Appellant's position:

The appellant argues that he feels like the ministry has not considered his previous history with them. Had they done so, they would have seen that S.A. (social assistance) is not a lifetime issue but rather a means to an end and that he is simply looking for help getting back on his feet.

Ministry's position:

The ministry's position is that the appellant agreed to participate in an EPBC program in 2016 and he

failed to follow through with his EP requirements by consistently not attending scheduled meetings and not reporting when he was not able to attend. The appellant has not provided a Medical Report identifying a medical condition that may have prevented the appellant from attending, participating, maintaining contact with EPBC or advising EPBC when he was not able to attend. The consequences for not complying with all the conditions of his EP were explained to the appellant several times in 2016.

Panel's decision:

Section 9(1) of the EAA provides that, when the ministry requires, a person must enter into an EP and comply with the conditions in the EP in order to be eligible for income assistance. The appellant signed an EP on March 4, 2016 and agreed to the conditions which required the appellant to take part in the employment program activities as agreed to with the contractor, to complete all tasks given to him, including any actions set out in his Action Plan, and call the EPBC contractor if he could not take part in services or complete agreed to steps, or when he found work.

Section 9(4) of the EAA stipulates that if an employment plan includes a condition requiring a recipient to participate in a specific employment-related program, that condition is not met if the person fails to demonstrate reasonable efforts to participate in the program, or ceases, except for medical reasons, to participate in the program. The appellant did not demonstrate reasonable efforts to participate in the EPBC when he failed to communicate with the EPBC contractor, supported by the evidence that he failed to attend appointments and respond to telephone call messages from March to August 2016. Further, there is no evidence of a medical condition that impacted his non-participation. As such, the panel finds that the ministry reasonably concluded, pursuant to Section 9(1) of the EAA, that the appellant did not comply with the conditions of his employment plan.

Having reviewed and considered all of the evidence and relevant legislation, the panel finds that the ministry's reconsideration decision which determined that the appellant was not eligible for income assistance for failure to comply with the conditions of his EP pursuant to Section 9(1) of the EAA was reasonably supported by the evidence, and therefore confirms the decision.